

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

JOSEPH JOHN ETCHEVERRY,

CV F 05-00454 OWW DLB HC

Petitioner,

ORDER DEEMING REQUEST FOR  
CERTIFICATE OF APPEALABILITY AS  
UNNECESSARY

v.

[Doc. 22]

JEANNE WOODFORD,

Respondents.

Petitioner is a state prisoner proceeding pro se with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254.

On October 13, 2006, the instant petition for writ of habeas corpus was denied on the merits and judgment was entered in favor of Respondent. (Court Doc. 18, 19.) On November 15, 2006, Petitioner filed a notice of appeal. Petitioner correctly notes that a certificate of appealability is not necessary in the instant case because he is not challenging the validity of his conviction, but rather the execution of his sentence. As such, no certificate of appealability is necessary. See *Rosas v. Nielsen*, 428 F.3d 1229, 1231-1232 (9<sup>th</sup> Cir. 2005); *White v. Lambert*, 370 F.3d 1002, 1010-1013 (9<sup>th</sup> Cir. 2004) (no certificate of appealability required for denial of petition challenging parole or any other administrative decision by prison officials in making a determination regarding the execution of prisoner's sentence). IT IS SO ORDERED.

**Dated: December 14, 2006**

emm0d6

**/s/ Oliver W. Wanger**

UNITED STATES DISTRICT JUDGE